

ESTTA Tracking number: **ESTTA519606**

Filing date: **02/04/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	American Travel Solutions, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	615 South Dupont Highway Dover, DE 19901 UNITED STATES		
Attorney information	Colin O'Brien Partridge IP Law P.C. 161 North Clark Suite 4700 Chicago, IL 60601 UNITED STATES colin@partridgeiplaw.com Phone:3126349503		

Applicant Information

Application No	85566395	Publication date	01/15/2013
Opposition Filing Date	02/04/2013	Opposition Period Ends	02/14/2013
Applicant	Fareportal, Inc. Ste 1201 213 West 35th Street New York, NY 10001 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2005/07/01 First Use In Commerce: 2005/07/01 All goods and services in the class are opposed, namely: Advertising services for travel services, namely, promoting the goods, services, brand identity and commercial information and news of travel and travel related companies on the Internet
Class 039. First Use: 2005/07/01 First Use In Commerce: 2005/07/01 All goods and services in the class are opposed, namely: Providing an on-line computer database in the field of travel information services; travel and tour information service; travel and tour ticket reservation service; travel services, namely, providing fare and rate information for transportation bookings and reservations for flights, car rentals, cruises, rail travel, and tours via computer; and providing travel information and news via computer
Class 043. First Use: 2005/07/01 First Use In Commerce: 2005/07/01 All goods and services in the class are opposed, namely: Providing travel lodging information services and travel lodging booking agency services for travelers

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2890981	Application Date	08/14/2003
Registration Date	10/05/2004	Foreign Priority Date	NONE
Word Mark	CHEAPAIR		
Design Mark	CHEAPAIR		
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1994/02/01 First Use In Commerce: 1994/02/01 Travel agency services, namely making reservations and bookings for airplane transportation, car rentals and arranging cruises		

U.S. Registration No.	3813293	Application Date	09/03/2009
Registration Date	07/06/2010	Foreign Priority Date	NONE
Word Mark	CHEAPAIR.COM		
Design Mark	CHEAPAIR.COM		
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2003/09/00 First Use In Commerce: 2003/09/00 Travel agency services, namely, making reservations and bookings for airline transportation, car rentals and arranging cruises Class 043. First use: First Use: 2003/09/01 First Use In Commerce: 2003/09/01 Travel agency services, namely, making hotel reservations for others		

Related Proceedings	91208345
---------------------	----------

Attachments	76537322#TMSN.jpeg (1 page)(bytes) 77819777#TMSN.jpeg (1 page)(bytes) AmTrav - Opposition versus Fareportal CHEAPOAIR.COM 13-0204.pdf (6 pages)(18288 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Colin O'Brien/
Name	Colin O'Brien
Date	02/04/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In The Matter of Application Serial No. 85/566,395

Published in the *Official Gazette* on January 15, 2013, in Classes 35, 39 and 43.

AMERICAN TRAVEL SOLUTIONS, LLC)	
Opposer,)	
)	
v.)	Opposition No.
)	
FAREPORTAL, INC., d/b/a CHEAP-O-AIR,)	
Applicant.)	
)	
)	

American Travel Solutions, LLC, (referred to hereafter as "American Travel"), a Delaware Limited Liability Company with a mailing address of 615 South DuPont Highway, Dover, Delaware 19901, believes it will be damaged by registration of the mark shown in App. Ser. No. 85/566,395 and opposes the same.

The grounds for opposition are as follows:

1. Since 1989 American Travel has been a leading aggregator of airline fares and discounts.
2. For many years American Travel has used the distinctive names and service marks CHEAPAIR and CHEAPAIR.COM in connection with its online travel business throughout the United States and abroad.
3. The CHEAPAIR and CHEAPAIR.COM marks have been prominently displayed as the name of American Travel's business and as the name of American Travel website, <www.cheapair.com>, since 1994.
4. American Travel owns federal trademark registrations of CHEAPAIR (Reg. 2,890,981, Registered 10/05/04) for "travel agency services, namely making reservations and

bookings for airplane transportation, car rentals and arranging cruises” in Class 39; and CHEAPAIR.COM (Reg. No. 3,813,293, Registered 07/06/10) for “travel agency services, namely, making reservations and bookings for airline transportation, car rentals and arranging cruises; travel agency services, namely, making hotel reservations for others” in Classes 39 and 43.

5. Since 1994, long prior to March 12, 2012, the date on which Fareportal, Inc., ("Applicant") filed the application opposed herein, Opposer has used the CHEAPAIR mark in connection with, *inter alia* travel agency services, namely making reservations and bookings for airplane transportation, car rentals and arranging cruises.

6. Since 2003, long prior to March 12, 2012, the date of the application opposed herein, American Travel has offered travel agency services, namely making reservations and bookings for airplane transportation, car rentals and arranging cruises under the CHEAPAIR.COM service mark.

7. American Travel has established itself in the field of airfare and other travel services using the CHEAPAIR and CHEAPAIR.COM marks, and American Travel has spent hundreds thousands of dollars to promote and distribute materials bearing the mark in interstate commerce.

8. As a result of American Travel’s long use, advertising and promotion, the CHEAPAIR and CHEAPAIR.COM marks are strongly associated with American Travel and therefore it owns immense valuable goodwill in its CHEAPAIR and CHEAPAIR.COM names and marks.

9. By virtue of its long-standing involvement and prominence in the business of travel services, American Travel's CHEAPAIR and CHEAPAIR.COM names and marks have become nationally recognized.

10. On March 12, 2012, Applicant filed an application, Serial No. 85/556,395, to register the mark CHEAPOAIR.COM ("the Infringing Mark") in connection with the following services:

"Advertising services for travel services, namely, promoting the goods, services, brand identity and commercial information and news of travel and travel related companies on the Internet," in International Class 35;

"Providing an on-line computer database in the field of travel information services; travel and tour information service; travel and tour ticket reservation service; travel services, namely, providing fare and rate information for transportation bookings and reservations for flights, car rentals, cruises, rail travel, and tours via computer; and providing travel information and news via computer" in International Class 39; and

"Providing travel lodging information services and travel lodging booking agency services for travelers" in International Class 43.

11. Applicant's application to register the Infringing Mark is without American Travel's consent.

12. Applicant's proposed use of the Infringing Mark in connection with the applied-for services is likely to cause confusion, mistake or deception with American Travel's CHEAPAIR and CHEAPAIR.COM name and marks.

13. American Travel has previously filed an opposition against applicant's trademark application number 85/564,451 for WWW.CHEAPOAIR.COM the number for that opposition is 91208345.

14. Accordingly, Applicant's registration of the Infringing Mark would damage American Travel.

WHEREFORE, American Travel prays that its Opposition be sustained and registration of Application Serial No. 85/566,395 be refused.

Opposer submits the requisite filing fee of \$600. Please address all correspondence to Colin T.J. O'Brien Partridge IP Law, P.C., 161 North Clark Street, Suite 4700, Chicago, Illinois 60601.

PARTRIDGE IP LAW, P.C.

Dated: February 4, 2012

By: s/Colin T.J. O'Brien
Mark V. B. Partridge
Colin T.J. O'Brien
Jordan A. Arnot
161 North Clark, Suite 4700
Chicago, Illinois 60601
(312) 634-9500
Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Colin T.J. O'Brien, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served upon Margaret Giugliano, McBreen Kopko, 462 7th Ave, Floor 17, New York, NY 10018-7426.

s/Colin T.J. O'Brien

CERTIFICATE OF ELECTRONIC TRANSMISSION

I, Colin T.J. O'Brien, hereby certify that this **Notice of Opposition** is being electronically transmitted to the Patent and Trademark Office on this 4th day of February, 2013.

c/Colin O'Brien